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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87243; File No. SR-CboeBZX-2019-084]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Listing and Trading of Shares of the FT Cboe Vest U.S. Equity Buffer ETFs and the FT Cboe Vest U.S. Equity Deep Buffer ETFs Under the First Trust Exchange-Traded Fund VIII

October 7, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 23, 2019, Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to list and trade shares of the FT Cboe Vest U.S. Equity Buffer ETFs and the FT Cboe Vest U.S. Equity Deep

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

Buffer ETFs under the First Trust Exchange-Traded Fund VIII (the “Trust”), under Rule 14.11(i) (“Managed Fund Shares”).

The text of the proposed rule change is also available on the Exchange’s website (http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (“Shares”) of up to twelve monthly FT Cboe Vest U.S. Equity Buffer ETFs (collectively, the “Buffer Funds”) and FT Cboe Vest U.S. Equity Deep Buffer ETFs (collectively, the “Deep Buffer Funds”) (each a “Fund” and, collectively, the “Funds”) under Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange.⁵ Each Fund will be actively managed. The Exchange submits this proposal in order to allow each Fund to hold listed derivatives in a manner that does not comply

⁵ The Commission originally approved BZX Rule 14.11(i) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR-BATS-2011-018) and subsequently approved generic listing standards for Managed Fund Shares under Rule 14.11(i) in Securities Exchange Act Release No. 78396 (July 22, 2016), 81 FR 49698 (July 28, 2016) (SR-BATS-2015-100).

with Rule 14.11(i)(4)(C)(iv)(b), as further described below. The Exchange notes that this proposal and the statements or representations herein regarding the limitations on portfolio holdings or reference assets, dissemination and availability of index, reference asset, and intraday indicative values, and the applicability of Exchange listing rules are substantively identical to those statements and representations included in a proposal previously approved by the Commission⁶ and the descriptions of the portfolio or reference assets are substantially similar to those included in the Original Approval and do not raise any new issues that the Commission has not previously contemplated. The only other notable differences between this proposal and the Original Approval, which the Exchange believes are non-substantive, are that: (i) the Original Approval approved the listing and trading of three series of monthly funds, while this proposal only proposes to list and trade two series of monthly funds; (ii) the Deep Buffer Funds will provide a buffer against SPY losses between 5% and 30% as compared to between 5% and 35% against S&P 500 Index losses in the Original Approval; and (iii) the investment objective of the Funds is based on the returns (before fees, expenses, and taxes) of SPY as compared to the S&P 500 Index in the Original Approval.

The Shares will be offered by the Trust, which was organized as a Massachusetts business trust on February 22, 2016. The Trust is registered with the Commission as an investment company and has filed a registration statement on Form N-1A (“Registration

⁶ See Securities Exchange Act Release No. 83679 (July 20, 2018), 83 FR 35505 (July 26, 2018) (SR-BatsBZX-2017-72) (the “Original Approval”). The only substantive difference between this proposal and the Original Approval is that this proposal would allow the Funds to hold FLExible EXchange Options (“FLEX Options”) on the SPDR S&P 500 ETF Trust (“SPY”) in addition to FLEX Options on the S&P 500 Price Return Index (the “S&P 500 Index”), while the Original Approval only allowed for FLEX Options on the S&P 500 Index.

Statement”) with the Commission on behalf of the August and November Funds.⁷ Each Fund intends to qualify each year as a regulated investment company (a “RIC”) under Subchapter M of the Internal Revenue Code of 1986, as amended.⁸ First Trust Advisors L.P. (the “Adviser”) is the investment adviser to the Funds. Cboe Vest Financial LLC is the sub-adviser (the “Sub-Adviser”) to the Funds. Rule 14.11(i)(7) provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a “fire wall” between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.⁹ In addition, Rule 14.11(i)(7) further requires that personnel who make decisions on the investment company’s portfolio composition must be subject to

⁷ See Registration Statement on Form N-1A for the Trust (File Nos. 333-210186 and 811-23147). The descriptions of the Funds and the Shares contained herein are based on information in the Registration Statement. There are no permissible holdings for the Funds that are not described in this proposal. The Commission has issued an order granting certain exemptive relief to the Trust under the Investment Company Act of 1940 (15 U.S.C. 80a-1) (“1940 Act”) (the “Exemptive Order”). See Investment Company Act Release No. 28468 (October 27, 2008) (File No. 812-13477).

⁸ 26 U.S.C. 851.

⁹ An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the “Advisers Act”). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A-1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A-1 under the Advisers Act. In addition, Rule 206(4)-7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable investment company portfolio. Neither the Adviser nor the Sub-Adviser is a registered broker-dealer, but both are currently affiliated with the same broker-dealer and have implemented and will maintain “fire walls” with respect to such broker-dealer regarding access to information concerning the composition and/or changes to a Fund’s portfolio. In addition, Adviser and Sub-Adviser personnel who make decisions regarding a Fund’s portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund’s portfolio. In the event that (a) the Adviser or Sub-Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

The investment objective of the Funds is to provide investors with returns (before fees, expenses, and taxes) that match those of SPY over a period of approximately one year, while providing a level of protection from SPY losses. The Funds are each actively managed funds that employ a “target outcome strategy” that:

(1) for the Buffer Funds, seeks to provide investors with returns (before fees, expenses, and taxes) that match those of SPY, up to a pre-determined upside cap (as specified both (i) before fees, expenses, and taxes, and (ii) after fees and expenses) (the “Buffer Cap Level”), while providing a buffer against the first 10% (before fees, expenses, and taxes) of SPY losses (the “Buffer Strategy”);

(2) for the Deep Buffer Funds, seeks to provide investors with returns (before fees, expenses, and taxes) that match those of SPY, up to a pre-determined upside cap (as specified both (i) before fees, expenses, and taxes, and (ii) after fees and expenses) (the “Deep Buffer Cap Level”), while providing a buffer against SPY losses between 5% and 30% (before fees, expenses, and taxes) (the “Deep Buffer Strategy” and, collectively with the Buffer Strategy, the “Strategies”).

Pursuant to the Strategies, each Fund will invest primarily in exchange-traded options contracts that reference either the S&P 500 Index or ETFs¹⁰ that track the S&P 500 Index. Target outcome strategies are designed to participate in market gains and losses within pre-determined ranges over a specified period (i.e. point to point). These outcomes are predicated on the assumption that an investment vehicle employing the strategy is held for the designated outcome periods. As such, the Exchange is proposing to list up to twelve monthly series of each of the Buffer Funds and Deep Buffer Funds, as named above.

The Exchange submits this proposal in order to allow each Fund to hold listed derivatives, in particular FLEX Options on SPY and/or FLEX Options on the S&P 500 Index (collectively, “S&P 500 FLEX Options”), in a manner that does not comply with Rule 14.11(i)(4)(C)(iv)(b).¹¹ Otherwise, the Funds will meet all other listing requirements of the

¹⁰ For purposes of this proposal, the term ETF means Portfolio Depositary Receipts, Index Fund Shares, and Managed Fund Shares as defined in Rule 14.11(b), (c), and (i), respectively, and their equivalents on other national securities exchanges.

¹¹ Rule 14.11(i)(4)(C)(iv)(b) provides that “the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the portfolio (including gross notional exposures).” The Funds would not meet the generic listing standards because they would fail to meet the requirement of Rule 14.11(i)(4)(C)(iv)(b) that prevents the aggregate gross notional value of listed derivatives based on any single underlying reference asset from exceeding

Generic Listing Standards¹² for Managed Fund Shares on an initial and continued listing basis under Rule 14.11(i).

FT Cboe Vest U.S. Equity Buffer ETFs

Under Normal Market Conditions,¹³ each Buffer Fund will attempt to achieve its investment objective by employing a “target outcome strategy” that will seek to provide investment returns (before fees, expenses, and taxes) during the outcome period that match the gains of SPY, up to the Buffer Cap Level, while shielding investors from SPY losses of up to 10% (before fees, expenses, and taxes). Pursuant to the Buffer Strategy, each Buffer Fund will invest primarily in S&P 500 FLEX Options or standardized options contracts listed on a U.S. exchange that reference either the S&P 500 Index or ETFs that track the S&P 500 Index.

The portfolio managers will invest in a portfolio of S&P 500 FLEX Options that, when

30% of the weight of the portfolio (including gross notional exposures) and the requirement that the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the portfolio (including gross notional exposures).

¹² For purposes of this proposal, the term “Generic Listing Standards” shall mean the generic listing rules for Managed Fund Shares under Rule 14.11(i)(4)(C).

¹³ As defined in Rule 14.11(i)(3)(E), the term “Normal Market Conditions” includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues causing dissemination of inaccurate market information or system failures; or force majeure type events such as natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance. In addition, for each Fund, on a temporary basis, including for defensive purposes, during the initial invest-up period (*i.e.*, the six-week period following the commencement of trading of Shares on the Exchange) and during periods of high cash inflows or outflows (*i.e.*, rolling periods of seven calendar days during which inflows or outflows of cash, in the aggregate, exceed 10% of such Fund’s net assets as of the opening of business on the first day of such periods), such Fund may depart from its principal investment strategies; for example, it may hold a higher than normal proportion of its assets in cash. During such periods, a Fund may not be able to achieve its investment objective. A Fund may adopt a defensive strategy when the Adviser and/or the Sub-Adviser believes securities in which such Fund normally invests have elevated risks due to market, political or economic factors and in other extraordinary circumstances.

held for the specified period, seeks to produce returns (before fees, expenses, and taxes) that, over the outcome period, match the positive returns of SPY up to the Buffer Cap Level. Pursuant to the Buffer Strategy, each Buffer Fund's portfolio managers will seek to produce the following outcomes during the outcome period:

- If SPY appreciates over the outcome period, the combination of FLEX Options held by the Buffer Fund will provide upside participation that is intended to match that of SPY, up to the Buffer Cap Level;
- If SPY decreases over the outcome period, the combination of FLEX Options held by the Buffer Fund will provide a payoff at expiration that is intended to compensate for losses experienced by SPY (if any), in an amount not to exceed 10% before fees, expenses, and taxes;
- If SPY has decreased in value by more than 10%, the Buffer Fund will experience all subsequent losses on a one-to-one basis.

The Buffer Funds will produce these outcomes by layering purchased and written FLEX Options. The customizable nature of FLEX Options allows for the creation of a strategy that sets desired target outcome parameters. The FLEX Options comprising a Buffer Fund's portfolio have terms that, when layered upon each other, are designed to buffer against losses or match the gains of SPY. However, another effect of the layering of FLEX Options with these terms is a cap on the level of possible gains.

Any FLEX Options that are written by a Buffer Fund that create an obligation to sell or buy an asset will be offset with a position in FLEX Options purchased by the Buffer Fund to create the right to buy or sell the same asset such that the Buffer Fund will always be in a net long position. That is, any obligations of a Buffer Fund created by its writing of FLEX Options

will be covered by offsetting positions in other purchased FLEX Options. On the FLEX Options expiration date, each Buffer Fund intends to sell the FLEX Options prior to their expiration and use the resulting proceeds to purchase new FLEX Options for the next outcome period. By purchasing new FLEX Options annually, each Buffer Fund seeks to ensure that investments made in a given month during the current year buffer against negative returns of SPY up to pre-determined levels in that same month of the following year. The Buffer Funds do not offer any protection against declines in SPY exceeding 10% on an annualized basis. Shareholders will bear all SPY losses exceeding 10% on a one-to-one basis.

The FLEX Options owned by each of the Buffer Funds will have the same terms (i.e. same strike price and expiration) for all investors of a Buffer Fund within an outcome period. The Buffer Cap Level will be determined with respect to each Buffer Fund on the inception date of the Buffer Fund and at the beginning of each outcome period and is determined based on the price of the FLEX Options acquired by the Buffer Fund at that time.

FT Cboe Vest U.S. Equity Deep Buffer ETFs

Under Normal Market Conditions, each Deep Buffer Fund will attempt to achieve its investment objective by employing a “target outcome strategy” that will seek to provide investment returns (before fees, expenses, and taxes) during the outcome period that match the gains of SPY, up to the Deep Buffer Cap Level, while shielding investors from SPY losses of between 5% and 30% (before fees, expenses, and taxes). Pursuant to the Deep Buffer Strategy, each Deep Buffer Fund will invest primarily in S&P 500 FLEX Options or standardized options contracts listed on a U.S. exchange that reference either the S&P 500 Index or ETFs that track the S&P 500 Index.

The portfolio managers will invest in a portfolio of S&P 500 FLEX Options that, when

held for the specified period, seeks to produce returns (before fees, expenses, and taxes) that, over the outcome period, match the returns of SPY up to the Deep Buffer Cap Level. Pursuant to the Deep Buffer Strategy, each Deep Buffer Fund's portfolio managers will seek to produce the following outcomes during the outcome period:

- If SPY appreciates over the outcome period, the combination of FLEX Options held by the Deep Buffer Fund will provide upside participation that is intended to match that of SPY, up to the Deep Buffer Cap Level;
- If SPY decreases over the outcome period by up to 5% or less, the combination of FLEX Options held by the Deep Buffer Fund will provide a payoff at expiration that is intended to match that of SPY up to -5% over the outcome period before fees, expenses, and taxes;
- If SPY decreases over the outcome period by more than 5% but less than or equal to 30%, the combination of FLEX Options held by the Deep Buffer Fund will provide a payoff at expiration that decreases by the percentage decrease of SPY, up to -5% over the outcome period before fees, expenses, and taxes; and
- If SPY has decreased in value by more than 30%, the combination of FLEX Options held by the Deep Buffer Fund will provide a payoff at expiration that is 25% less than the percentage loss on SPY with a maximum loss of approximately 75% over the outcome period before fees, expenses, and taxes.

The Deep Buffer Funds will produce these outcomes by layering purchased and written FLEX Options. The customizable nature of FLEX Options allows for the creation of a strategy that sets desired target outcome parameters. The FLEX Options comprising a Deep Buffer Fund's portfolio have terms that, when layered upon each other, are designed to buffer against losses or match the gains of SPY. However, another effect of the layering of FLEX Options with

these terms is a cap on the level of possible gains.

Any FLEX Options that are written by a Deep Buffer Fund that create an obligation to sell or buy an asset will be offset with a position in FLEX Options purchased by the Deep Buffer Fund to create the right to buy or sell the same asset such that the Deep Buffer Fund will always be in a net long position. That is, any obligations of a Deep Buffer Fund created by its writing of FLEX Options will be covered by offsetting positions in other purchased FLEX Options. On the FLEX Options expiration date, each Deep Buffer Fund intends to sell the FLEX Options prior to their expiration and use the resulting proceeds to purchase new FLEX Options for the next outcome period. By purchasing new FLEX Options annually, each Deep Buffer Fund seeks to ensure that investments made in a given month during the current year buffer against negative returns of SPY up to pre-determined levels in that same month of the following year. Other than the 25% protection against declines from 5% to 30%, the Deep Buffer Funds do not offer any protection against declines in SPY exceeding 30% on an annualized basis. Shareholders will bear all SPY losses exceeding 30% on a one-to-one basis.

The FLEX Options owned by each of the Deep Buffer Funds will have the same terms (i.e., same strike price and expiration) for all investors of a Deep Buffer Fund within an outcome period. The Deep Buffer Cap Level will be determined with respect to each Deep Buffer Fund on the inception date of the Deep Buffer Fund and at the beginning of each outcome period and is determined based on the price of the FLEX Options acquired by the Deep Buffer Fund at that time.

Investment Methodology for the Funds

Under Normal Market Conditions, each Fund will invest substantially all of its assets in U.S. exchange-listed S&P 500 FLEX Options. Each of the Funds may invest its net assets (in the

aggregate) in other investments which the Adviser and/or the Sub-Adviser believes will help each Fund to meet its investment objective and that will be disclosed at the end of each trading day (“Other Assets”). Other Assets include only the following: cash or cash equivalents, as defined in Rule 14.11(i)(4)(C)(iii)¹⁴ and standardized options contracts listed on a U.S. securities exchange that reference either the S&P 500 Index or that reference ETFs that track the S&P 500 Index.

S&P 500 FLEX Options

The market for options contracts on the S&P 500 Index traded on Cboe Exchange, Inc. (“Cboe Options”) is among the most liquid markets in the world. In August 2019, approximately 1.488 million options contracts on the S&P 500 Index were traded per day, which is more than \$430 billion in notional volume traded on a daily basis. Similarly, more than 75 million options contracts referencing SPY were traded in August 2019, representing more than \$105 billion in notional volume on a daily basis. While FLEX Options are traded differently than standardized options contracts, the Exchange believes that this liquidity bolsters the market for FLEX Options, as described below. Every FLEX Option order submitted to an exchange is exposed to a competitive auction process for price discovery. The process begins with a request for quote (“RFQ”) in which the interested party establishes the terms of the FLEX Options contract. The

¹⁴ As defined in Rule 14.11(i)(4)(C)(iii), cash equivalents include short-term instruments with maturities of less than three months, including: (i) U.S. Government securities, including bills, notes, and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities; (ii) certificates of deposit issued against funds deposited in a bank or savings and loan association; (iii) bankers acceptances, which are short-term credit instruments used to finance commercial transactions; (iv) repurchase agreements and reverse repurchase agreements; (v) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; (vi) commercial paper, which are short-term unsecured promissory notes; and (vii) money market funds.

RFQ solicits interested market participants, including on-floor market makers, remote market makers trading electronically, and member firm traders, to respond to the RFQ with bids or offers through a competitive process. This solicitation contains all of the contract specifications- underlying, size, type of option, expiration date, strike price, exercise style and settlement basis. During a specified amount of time, responses to the RFQ are received and at the end of that time period, the initiator can decide whether to accept the best bid or offer. The process occurs under the rules of the applicable listing exchange which means that customer transactions are effected according to the principles of a fair and orderly market following trading procedures and policies developed by the applicable self-regulatory organization.

The Exchange believes that sufficient protections are in place to protect against market manipulation of the Funds' Shares and S&P 500 FLEX Options for several reasons: (i) the diversity, liquidity, and market cap of the securities underlying the S&P 500 Index; (ii) the competitive quoting process for FLEX Options; (iii) the significant liquidity in the market for options on the S&P 500 Index and SPY results in a well-established price discovery process that provides meaningful guideposts for FLEX Option pricing; and (iv) surveillance by the Exchange, Cboe Options, other U.S. options exchanges, and the Financial Industry Regulatory Authority ("FINRA") designed to detect violations of the federal securities laws and self-regulatory organization ("SRO") rules. The Exchange has in place a surveillance program for transactions in ETFs to ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the Shares less readily susceptible to manipulation. Further, the Exchange believes that because the assets in each Fund's portfolio,

which are comprised primarily of S&P 500 FLEX Options, will be acquired in extremely liquid and highly regulated markets,¹⁵ the Shares are less readily susceptible to manipulation.

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Managed Fund Shares. All statements and representations made in this filing regarding (a) the description of the portfolio, reference assets, and index, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules shall constitute continued listing requirements for listing the Shares on the Exchange. The issuer has represented to the Exchange that it will advise the Exchange of any failure by a Fund or the related Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. If a Fund or the related Shares are not in compliance with the applicable listing requirements, then, with respect to such Fund or Shares, the Exchange will commence delisting procedures under Exchange Rule 14.12. FINRA conducts certain cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures with respect to such Fund under Exchange Rule 14.12.

¹⁵ All exchange-listed securities that the Funds may hold will trade on a market that is a member of the Intermarket Surveillance Group ("ISG") and the Funds will not hold any non-exchange-listed equities or options, however, not all of the components of the portfolio for the Funds may trade on exchanges that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. For a list of the current members of ISG, see www.isgportal.org.

The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and exchange-traded options contracts with other markets and other entities that are members of the ISG and may obtain trading information regarding trading in the Shares and exchange-traded options contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and exchange-traded options contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

As noted above, options on the S&P 500 Index and SPY are among the most liquid options in the world and derive their value from the actively traded S&P 500 Index components. The contracts trade in competitive auction markets with price and quote transparency. The Exchange believes the highly regulated options markets and the broad base and scope of the S&P 500 Index make securities that derive their value from that index less susceptible to market manipulation in view of market capitalization and liquidity of the S&P 500 Index components, the market cap and liquidity of SPY, price and quote transparency, and arbitrage opportunities.

The Exchange believes that the liquidity of the markets for SPY, S&P 500 Index securities, options on the S&P 500 Index and SPY, and other related derivatives is sufficiently great to deter fraudulent or manipulative acts associated with the Funds' Shares price. The Exchange also believes that such liquidity is sufficient to support the creation and redemption mechanism. Coupled with the extensive surveillance programs of the SROs described above, the Exchange does not believe that trading in the Funds' Shares would present manipulation concerns.

The Exchange represents that, except for the limitations on listed derivatives in BZX Rule 14.11(i)(4)(C)(iv)(b), the Funds' proposed investments will satisfy, on an initial and continued listing basis, all of the generic listing standards under BZX Rule 14.11(i)(4)(C) and all other applicable requirements for Managed Fund Shares under Rule 14.11(i). The Trust is required to comply with Rule 10A-3 under the Act for the initial and continued listing of the Shares of the Funds. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. In addition, the Exchange represents that the Shares of the Funds will comply with all other requirements applicable to Managed Fund Shares, which includes the dissemination of key information such as the Disclosed Portfolio,¹⁶ Net Asset Value,¹⁷ and the Intraday Indicative Value,¹⁸ suspension of trading or removal,¹⁹ trading halts,²⁰ surveillance,²¹ minimum price variation for quoting and order entry,²² and the information circular,²³ as set forth in Exchange rules applicable to Managed Fund Shares. Further, all statements or representations regarding the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of index, reference asset, and intraday indicative values, or the applicability of Exchange listing rules shall constitute continued listing requirements for the Funds. Moreover, all of the options contracts held by the Funds will trade on markets that are a member of ISG or affiliated with a member of ISG or with which the

¹⁶ See Rule 14.11(i)(4)(A)(ii) and 14.11(i)(4)(B)(ii).

¹⁷ See Rule 14.11(i)(4)(A)(ii).

¹⁸ See Rule 14.11(i)(4)(B)(i).

¹⁹ See Rule 14.11(i)(4)(B)(iii).

²⁰ See Rule 14.11(i)(4)(B)(iv).

²¹ See Rule 14.11(i)(2)(C).

²² See Rule 14.11(i)(2)(B).

²³ See Rule 14.11(i)(6).

Exchange has in place a comprehensive surveillance sharing agreement. Quotation and last sale information for U.S. exchange-listed options contracts cleared by The Options Clearing Corporation will be available via the Options Price Reporting Authority. RFQ information for FLEX Options will be available directly from the applicable options exchange. The intra-day, closing and settlement prices of exchange-traded options will be readily available from the options exchanges, automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. Price information on cash equivalents is available from major broker-dealer firms or market data vendors, as well as from automated quotation systems, published or other public sources, or online information services.

Lastly, the issuer represents that it will provide and maintain a publicly available web tool for each of the Funds on its website that provides existing and prospective shareholders with important information to help inform investment decisions. The information provided includes the start and end dates of the current outcome period, the time remaining in the outcome period, the Fund's current net asset value, the Fund's cap for the outcome period and the maximum investment gain available up to the cap for a shareholder purchasing Shares at the current net asset value. For each of the Funds, the web tool also provides information regarding each Fund's buffer. This information includes the remaining buffer available for a shareholder purchasing Shares at the current net asset value or the amount of losses that a shareholder purchasing Shares at the current net asset value would incur before benefitting from the protection of the buffer. The cover of each Fund's prospectus, as well as the disclosure contained in "Principal Investment Strategies," provides the specific web address for each Fund's web tool.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act²⁴ in general and Section 6(b)(5) of the Act²⁵ in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, because, as noted above, the Shares will meet each of the initial and continued listing criteria in BZX Rule 14.11(i) with the exception of Rule 14.11(i)(4)(C)(iv)(b), which requires that the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the portfolio (including gross notional exposures).²⁶ Rule 14.11(i)(4)(C)(iv)(b) is intended to ensure that a fund is not subject to manipulation by virtue of significant exposure to a manipulable underlying reference asset by establishing concentration limits among the underlying reference assets for listed derivatives held by a particular fund.

²⁴ 15 U.S.C. 78f.

²⁵ 15 U.S.C. 78f(b)(5).

²⁶ As noted above, the Exchange is submitting this proposal because the Funds would not meet the requirements of Rule 14.11(i)(4)(C)(iv)(b) which prevents the aggregate gross notional value of listed derivatives based on any single underlying reference asset from exceeding 30% of the weight of the portfolio (including gross notional exposures) and the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets from exceeding 65% of the weight of the portfolio (including gross notional exposures).

The Exchange believes that sufficient protections are in place to protect against market manipulation of the Funds' Shares and S&P 500 FLEX Options for several reasons: (i) the diversity, liquidity, and market cap of the securities underlying the S&P 500 Index; (ii) the competitive quoting process for FLEX Options; (iii) the significant liquidity in the market for options on the S&P 500 Index and SPY results in a well-established price discovery process that provides meaningful guideposts for FLEX Option pricing; and (iv) surveillance by the Exchange, Cboe Options, other U.S. options exchanges, and FINRA designed to detect violations of the federal securities laws and SRO rules. The Exchange has in place a surveillance program for transactions in ETFs to ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the Shares less readily susceptible to manipulation. Further, the Exchange believes that because the assets in each Fund's portfolio, which are comprised primarily of S&P 500 FLEX Options, will be acquired in extremely liquid and highly regulated markets, the Shares are less readily susceptible to manipulation.

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Managed Fund Shares. All statements and representations made in this filing regarding (a) the description of the portfolio, reference assets, and index, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules shall constitute continued listing requirements for listing the Shares on the Exchange. The issuer has represented to the Exchange that it will advise the Exchange of any failure by a Fund or the related Shares to

comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. If a Fund or the related Shares are not in compliance with the applicable listing requirements, then, with respect to such Fund or Shares, the Exchange will commence delisting procedures under Exchange Rule 14.12. FINRA conducts certain cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures with respect to such Fund under Exchange Rule 14.12.

The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and exchange-traded options contracts with other markets and other entities that are members of the ISG and may obtain trading information regarding trading in the Shares and exchange-traded options contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and exchange-traded options contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees. As noted above, options on the S&P 500 Index and SPY are among the most liquid options in the world and derive their value from the actively traded S&P 500 Index components. The Exchange believes the highly regulated options markets and the broad base and scope of the S&P 500 Index make securities that derive their value from that index less susceptible to market manipulation in view of market capitalization and liquidity of

the S&P 500 Index components, the market cap and liquidity of SPY, price and quote transparency, and arbitrage opportunities.

The Exchange believes that the liquidity of the markets for S&P 500 Index securities, SPY, options on the S&P 500 Index and SPY, and other related derivatives is sufficiently great to deter fraudulent or manipulative acts associated with the Funds' Shares price. The Exchange also believes that such liquidity is sufficient to support the creation and redemption mechanism. Coupled with the extensive surveillance programs of the SROs described above, the Exchange does not believe that trading in the Funds' Shares would present manipulation concerns.

The Exchange represents that, except as described above, the Funds will meet and be subject to all other requirements of the Generic Listing Standards and other applicable continued listing requirements for Managed Fund Shares under Rule 14.11(i), including those requirements regarding the Disclosed Portfolio,²⁷ Intraday Indicative Value,²⁸ suspension of trading or removal,²⁹ trading halts,³⁰ disclosure,³¹ and firewalls.³² The Trust is required to comply with Rule 10A-3 under the Act for the initial and continued listing of the Shares of each Fund. Moreover, all of the options contracts held by the Funds will trade on markets that are a member of ISG or affiliated with a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

Finally, this proposal and the statements or representations herein regarding the limitations on portfolio holdings or reference assets, dissemination and availability of index,

²⁷ See Rule 14.11(i)(4)(B)(ii).

²⁸ See Rule 14.11(i)(4)(B)(i).

²⁹ See Rule 14.11(i)(4)(B)(iii).

³⁰ See Rule 14.11(i)(4)(B)(iv).

³¹ See Rule 14.11(i)(6).

³² See Rule 14.11(i)(7).

reference asset, and intraday indicative values, and the applicability of Exchange listing rules are substantively identical to those statements and representations included in the Original Approval and the descriptions of the portfolio or reference assets are substantially similar to those included in the Original Approval. The only substantive difference between this proposal and the Original Approval is that this proposal would allow the Funds to hold S&P 500 FLEX Options, while the Original Approval only allowed for FLEX Options on the S&P 500 Index.³³ As noted above, there is significant liquidity in the components of the S&P 500 Index, options on the S&P 500 Index, and options on SPY, and, as such, allowing the Funds to hold FLEX Options referencing SPY raises no additional substantive issues for the Commission to review as compared to allowing the comparable funds from the Original Approval to hold FLEX Options referencing the S&P 500 Index. As such, the Exchange believes the proposed rule change will not significantly affect the protection of investors or the public interest because the proposal contains no new issues that the Commission has not previously contemplated.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an

³³ The Exchange also notes that the only other notable differences between this proposal and the Original Approval, which it believes are non-substantive, are that: (i) the Original Approval approved the listing and trading of three series of monthly funds, while this proposal only proposes to list and trade two series of monthly funds; (ii) the Deep Buffer Funds provide a buffer against SPY losses between 5% and 30% as compared to between 5% and 35% against S&P 500 Index losses in the Original Approval; and (iii) the investment objective of the Funds is based on the returns (before fees, expenses, and taxes) of SPY as compared to the S&P 500 Index in the Original Approval.

additional type of Managed Fund Shares that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act³⁴ and Rule 19b-4(f)(6) thereunder.³⁵

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act³⁶ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)³⁷ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange believes that the proposal and its statements and representations regarding the limitations on portfolio holdings or reference assets, dissemination and availability of index,

³⁴ 15 U.S.C. 78s(b)(3)(A).

³⁵ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

³⁶ 17 CFR 240.19b-4(f)(6).

³⁷ 17 CFR 240.19b-4(f)(6)(iii).

reference asset, and intraday indicative values, and the applicability of Exchange listing rules, as well as the descriptions of the portfolio or reference assets are substantively identical to those statements and representations included in the Original Approval. The Exchange believes that there is significant liquidity in the components of the S&P 500 Index, options on the S&P 500 Index, and options on SPY, and that allowing the Funds to hold FLEX Options referencing SPY raises no additional substantive issues for the Commission to review. Further, the Exchange believes waiver of the operative delay will more quickly facilitate the Adviser's ability to list the product on the Exchange, which will enhance competition among market participants, to the benefit of investors and the marketplace. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.³⁸

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

³⁸ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CboeBZX-2019-084 on the subject line.

Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CboeBZX-2019-084. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments

are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeBZX-2019-084, and should be submitted on or before **[INSERT DATE 21 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER]**.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁹

Jill M. Peterson,

Assistant Secretary.

³⁹ 17 CFR 200.30-3(a)(12).

